

Pacific Import Co.

Incorporated.
Progress Block, Fort Street

Importation Direct From Switzerland

We have just received large invoices of seasonable goods in every department, 4-8 S. Australia. Goods will be open and ready for inspection soon.

The Latest European Novelties

Suitable for Christmas presents; the largest variety of articles ever imported by any store. The quantities are not large, hence it behooves every woman in Honolulu to watch our opening advertisements and sales very closely.

Special--We have 2,000 dozen handkerchiefs for ladies, gentlemen and children; no better assortment will be shown anywhere; they are our own importation direct from Switzerland. Our prices will be the lowest.

Large invoices of silks will also be opened and we call special attention to our complete lines of Taffetas.

Muslin Underwear--In this department we will lead. Our prices are the lowest, our styles the newest and our assortment is so complete that ladies will find no difficulty in making selections.

Boys' Clothing--In this department we have already opened a complete large stock of Wash Suits, and Blue Serges and Tweed Suits. Mothers' Friend Shirt Waists in all styles and prices.

15 Doz. Ladies' White Shirt Waists; do not fail to see them. Our Ribbon Department is complete --our prices are "Red Rock."

The Union Express Co.,

Office with Evening Bulletin.

210 King Street Telephone 96.

We move safes, pianos and furniture. We haul freight and lumber. We sell black and white sand. We meet all incoming coast steamers, we check baggage on all outgoing steamers.

W. LARSEN,
Manager.

G. H. Brown, SANITARY PLUMBER.

Is now open for business on Merchant street, between Fort and Alakea streets.

Estimates made on everything in the plumbing line.
Phone MAIN 48.

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THE

A. Harrison Mill Co. Ltd

Kawaiaho Street, Kewalo.

MILL WORK IN ALL ITS BRANCHES.
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Orders Solicited. Prompt Service.

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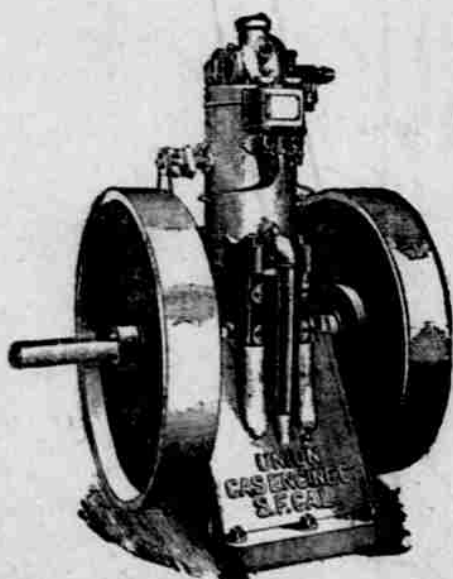
In any quantity. Apply to
W. O. ACHI & CO.,
10 West King Street.
July 30 1900.

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First class in every detail

AH CHUCK,
Proprietor.



(THE UNION ENGINE)

Sole Agents: THE VON HAMM YOUNG CO. LTD.

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The CLEVELAND Bicycle Agency is with us now, and will be at HOME where there are facilities to properly handle that first class wheel. The stock will be sold at reduced rates to make room for New Goods ordered.

The STEARNS Bicycle from \$25.00 to \$75.00 still on hand.

Milwaukee Puncture Proof Tire in all sizes at

BAILEY'S HONOLULU CYCLERY CO., Limited.
227, 229 and 231 King Street.

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CORNER FORT AND MERCHANT STREETS.

Has received per Australia from NEW YORK the world renowned brand of Cigars.

Lillian Russell Puritanos

This elegant CIGAR can be purchased for FIVE CENTS ONLY.
TRY THEM NONE BETTER

GRAND CLEARANCE SALE

For one month only in all lines commencing

Saturday, September 29, 1900

Bargains in Grass Cloth (various colors), Handkerchiefs (embroidered), Heavy Pongee Silk for Shirts or Skirts, etc.

GOO KIM, 210 Nuanu St Above Hotel

CONSTITUTION FOLLOWED THE FLAG.

(Continued from First Page.)

tion over the territory, is contrary to the holding of the Supreme court of the United States above cited, and the effect that the general government is one of enumerated powers, and can claim and exercise no power not granted to it by the constitution, either expressly or by necessary implication. "It is clear that the general government cannot legislate over territory which the constitution from which its very power is derived does not extend. The constitution must be in force over a territory before the general government can have any authority to legislate respecting it. No foreign sovereign can invest the general government with any legislative power."

Can Only Exist Under Constitution.

The plain, obvious and undeniable fact is that the general government of the United States, created by the constitution and possessing no vitality or power not directly drawn from that instrument, can only exist and legislate where the constitution is in force, and that every tract of territory that comes under the sovereignty of the United States comes necessarily under that constitution which is life to that sovereignty, and beyond which the sovereignty must cease." Ex parte Ortiz, 109 F. 961.

The first ten amendments to the constitution of the United States have been called the Federal Bill of Rights. Robertson v. Baldwin, 155 U. S. 275. And it is well understood that none of these amendments were adopted to announce new principles or to declare and define new rights but were intended to carry forward and reaffirm the rights and privileges of freemen, well known and understood by the people who adopted them and whose ancestors had, at great sacrifice, forced their acknowledgment from the hands of unlimited power.

Mr. Justice Cooley says: "The truth is the Bill of Rights in the American constitution have not been drafted for the introduction of new law, but to secure old principles against abrogation or violation. They are conservative instruments rather than reformatory, and they assume that the existing principles of the common law are examples for the protection of individual rights, when once incorporated in the fundamental law and thus secured against violation." Welmer v. Bunbury, 30 Mich. 214.

What Judge Edmunds Says.

Hon. George F. Edmunds, who is justly regarded as one of the greatest living expounders of the constitution, said: "But the constitution as such, I suppose all admit, is not subject to the control of Congress, either to enlarge or to diminish, extend or contract, or to be applied to or withdrawn from any people or place. It is not a movable thing like the Ark of the covenant of the Israelites, to be set up and moved here or there as the tribes might wander. It is the actual event and condition and not the legislative or executive will that must in the nature of things determine the status of a man or a country under it."

"The instances in which Congress had declared in statutes organizing territories that the constitution and laws should be in force there are no evidence that the constitution and laws were not already there, for Congress and all legislative bodies have often made enactments that in effect merely declared existing law. In such cases they declare a pre-existing truth to ease the doubts of consultants."

Letter of Senator Proctor, dated March 21st, 1900 and published in Congressional Record, March 30, 1900 p. 5737.

Cannot Depend on Will of Congress.

We cannot assent to the doctrine that the operation of the constitution in the territories belonging to the United States depends upon the will or action of Congress extending it there. This doctrine necessarily carries with it the admission that what one Congress can give, the same or a succeeding Congress can take away; that although Congress by the Organic Act, organizing the Territory of Hawaii, extending the constitution and laws of the United States to this Territory, the next Congress might repeal that part of the Organic Act and that then the people of this territory would have none of the guarantees of life, liberty and property provided in the constitution and might thereafter be governed as a province, a Crown colony, or in any manner that Congress in its wisdom, or unwisdom, might provide; that a tariff might be levied on the products of the territory; that the status and citizenship of this territory might be denied the rights and privileges of citizens of the United States residing in other parts of its imperial domain.

From the above citation of authorities we reach the easy conclusion that those negative provisions of the constitution, adopted to declare and protect the life, liberty and property of the citizens were in force in the Hawaiian Islands as soon as the same became a part of the United States territory and subject to the "sovereign domain" thereof. It is not necessary in order to decide the case at bar to express an opinion as to whether the constitution extends to and is in force in all territory subject to the sovereignty of the United States. It is clear and well settled that some of the provisions of the constitution do not apply to the territories whether there is an act of Congress expressly extended them there or not, for the reason that they are totally inapplicable to the conditions existing in the territories. However, the able and most earnest advocates of the unlimited power of Congress to legislate for the territories, unrestricted by the provisions of the constitution, frankly admit that those negative provisions of the constitution inserted to protect the life and property of the citizen are in force in the territories and are so far a limitation on the power of Congress in legislating for the territories.

Was Petitioner Denied Rights?

"It may be admitted," says Townsend, United States district judge of Southern district of New York, "that the constitutional guarantees of civil rights would apply to the territory under the sovereignty, but not a part of the United States. Certain civil rights which we believe belong to every one are crystallized into the negative provisions of our constitution in order to prevent any wrongful and improper use of our power, and these may be held to control our power whenever it reaches. These considerations may be found to limit us in governing any territory." (Goetz v. U. S. Law Notes for July, 1900, p. 62).

That some of these "negative provisions" are contained in the fifth and sixth amendments to the constitution is a fact, and it is equally clear to us that these were in force in the Hawaiian Islands on the 16th day of August, 1898, at the time of the trial and conviction of the petitioner.

Was the petitioner then denied any of the rights and privileges guaranteed him thereby? That he was tried and convicted of an "infamous crime" no citation of authorities will be necessary to establish.

The question is not whether an indictment found by the circuit judge as provided by the laws of the Republic of Hawaii, is as good a protection to the life and liberty of the citizen as one presented by a grand jury, but it is whether or not the fifth amendment requires or guarantees to the citizen that he shall not be placed on trial for an infamous crime without an indictment by a grand jury.

Must be Indicted by Grand Jury.

Mr. Justice Gray said: "But if the crime of which the petitioner was accused was an infamous crime, within the meaning of the fifth amendment of the constitution, no court of the United States had jurisdiction to try or punish him, except upon presentment or indictment by a grand jury." (Ex parte Wilson, 110 U. S. 422).

The reason why a person so accused cannot be tried or punished in any "court of the United States" and may be in a state court, is that the federal bill of rights, or first ten amendments to the constitution, do not apply to the people of the states in making their state constitutions nor to the state legislatures in legislating for the states. But it is well settled that Congress, in legislating for the territories is bound by these amendments.

Oath of Hawaiian Judges.

It cannot be seriously contended that Congress intended, by the joint resolution of annexation, or did in fact authorize the courts of the Hawaiian Islands to do what the courts of no other territory of the United States could do. After annexation the courts of the Hawaiian Islands exercised all their power and authority under the joint resolution and by direction of the president of the United States, and we may observe in this connection that the judges of these courts were required to take and did in fact take an oath to support the constitution of the United States.

Mr. Justice Gray further said in the case last cited, "That no person can be held to answer, without presentment or indictment by a grand jury, for any crime for which an infamous punishment may be imposed by the court. The question is whether the crime is one for which the statute authorizes the court to award an infamous punishment, not whether the punishment ultimately awarded is an infamous one. When the accused is in danger of being subjected to an infamous punishment if convicted he has the right to insist that he shall not be put on trial except upon the accusation of a grand jury. . . . But the constitution protecting every one from being prosecuted without the intervention of a grand jury for any crime which is subject by law to an infamous punishment, no declaration of Congress is needed to secure or competent to defeat the constitutional safeguard." Ex parte Wilson, 110 U. S. p. 423.

Utah Case Cited.

Mr. Justice Harlan in Thompson vs. Utah, 170 U. S. 346, says: "That the provisions of the constitution of the United States relating to the right of trial by jury in suits at common law apply to the territories of the United States is no longer an open question."

Citing Webster vs. Reid, 11 How. 437-460; Am. Pub. Co. vs. Fisher, 166 U. S. 464-468; Springfield vs. Thomas, 166 U. S. 507.

In the last named case it was claimed that the territorial legislature of Utah was empowered by the Organic Act of the territory of Sept. 9, 1850, 9 L. 453, c. 57, par. 6, to provide that unanimity of action on the part of jurors in civil cases was not necessary to a valid verdict. "That court said: 'In our opinion the seventh amendment secured unanimity in finding a verdict as an essential feature of trial by jury in common law cases, and the act of Congress could not impair the power to change the constitutional rule and could not be treated as attempting to do so. It is equally beyond question that the provisions of the national constitution relating to trial by jury for crimes and to criminal prosecutions apply to the territories of the United States, 170 U. S. pp. 346-347.

"Assuming that the provisions of the constitution relating to trials for crimes and to criminal prosecutions apply to the territories of the United States, the next inquiry is whether the jury referred to in the original constitution and the sixth amendment is a jury constituted, as it was a common law, of twelve persons, neither more nor less. (2 Hale's P. C. 161; 1 Chitty's Cr. Law, 505). This question must be answered in the affirmative. (Thompson vs. Utah, 170 U. S. p. 349).

Change of Law with Admission.

"It will be remembered that Thompson was placed upon trial for a felony, committed when Utah was a territory, and under the state constitution eight persons composed a lawful jury, and such a jury tried and found Thompson guilty. In the opinion last cited the court further says: 'Was it then competent for the state of Utah, upon its admission to the union, to do in respect of Thompson's crime what the United States could not have done while Utah was a territory, namely, to provide for his trial by a jury of eight persons? We are of the opinion that the state did not acquire upon its admission into the union the power to provide in respect to felonies committed within its limits while it was a territory, that they should be otherwise than by a jury such as is provided by the constitution of the United States. When Thompson's crime was committed, it was his constitutional right to demand that his liberty should not be taken from him except by the joint action of the court and the unanimous verdict of a court of twelve persons. To hold that a state

(Continued on Sixth Page.)

Cuts and Bruises Quickly Healed.

"For three days and nights I suffered agony untold from an attack of cholera morbus brought on by eating cucumbers," says M. E. Lowther, clerk of the district court, Centerville, Iowa. "I thought I should surely die and tried a dozen different medicines, but all to no purpose. I sent for a bottle of Chamberlain's Colic, Cholera and Diarrhoea Remedy and three doses relieved me entirely. I went to sleep and did not awake for eight hours. On awakening a few hours ago I felt so gratified that the first work I do on going to the office is to write to the manufacturers of this remedy and offer them my grateful thanks and say, 'God bless you and the splendid medicine you make.' This remedy is for sale by Benson, Smith & Co., general agents, Territory of Hawaii.

E. O. HALL & SON, Ltd.

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E. O. HALL & SON, Ltd.

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Corner Fort and Beretania Sts., opp. Fire Station.

For a few days only we will hold a Special Sale in the following lines:

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Linen Towels, large size.....2 50 a dozen and up
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Please Remember This Sale.

Prices extra low while the sale lasts. Don't miss these bargains.

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A SPLENDID TONIC

Is recommended to build up the convalescent; strengthen the weak and overworked, and produce sound, refreshing sleep.

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Bottled at the Springs at the foot of the famous Mount Shasta in California.

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Are healthful, invigorating drinks which nourish the system while pleasing the palate.

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